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Report of the United Nations Commission on International Trade Law on the work of its forty-third session

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Report of the United Nations Commission on International Trade Law on the work of its forty-third session

The General Assembly,

Recalling its resolution 2205 (XXI) of 17 December 1966, by which it established the United Nations Commission on International Trade Law with a mandate to further the progressive harmonization and unification of the law of international trade and in that respect to bear in mind the interests of all peoples, in particular those of developing countries, in the extensive development of international trade,

Reaffirming its belief that the progressive modernization and harmonization of international trade law, in reducing or removing legal obstacles to the flow of international trade, especially those affecting developing countries, would contribute significantly to universal economic cooperation among all States on a basis of equality, equity, common interest and respect for the rule of law, to the elimination of discrimination in international trade and, thereby, to peace, stability and the well-being of all peoples,

Having considered the report of the Commission on the work of its forty-third session,¹

Reiterating its concern that activities undertaken by other bodies in the field of international trade law without adequate coordination with the Commission might lead to undesirable duplication of efforts and would not be in keeping with the aim of promoting efficiency, consistency and coherence in the unification and harmonization of international trade law,

Reaffirming the mandate of the Commission, as the core legal body within the United Nations system in the field of international trade law, to coordinate legal activities in this field, in particular to avoid duplication of efforts, including among organizations formulating rules of international trade, and to promote efficiency, consistency and coherence in the modernization and harmonization of international trade law, and to continue, through its secretariat, to maintain close cooperation with other international organs and organizations, including regional organizations, active in the field of international trade law,

1. *Takes note with appreciation* of the report of the United Nations Commission on International Trade Law on the work of its forty-third session;¹

2. *Commends* the Commission for the finalization and adoption of three new international commercial law standards as follows: the UNCITRAL Arbitration Rules as revised in 2010;² the UNCITRAL Legislative Guide on Secured Transactions: Supplement on Security Rights in Intellectual Property;³ and part three of the UNCITRAL Legislative Guide on Insolvency Law on the treatment of enterprise groups in insolvency;⁴

3. *Encourages* the Commission to finalize its work on a revision of the UNCITRAL Model Law on Procurement of Goods, Construction and Services⁵ at its forty-fourth session, in 2011;

4. *Welcomes* the decisions of the Commission to take up new topics in the areas of settlement of commercial disputes, security interests and insolvency law and undertake work in the area of online dispute resolution;

5. *Also welcomes* the decisions of the Commission to hold international colloquiums in order to facilitate identification of a road map for future work by the Commission in the area of electronic commerce and in order to explore the legal and regulatory issues surrounding microfinance that fell within the mandate of the Commission;

6. *Further welcomes* the progress made in the ongoing project of the Commission on monitoring the implementation of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, done at New York on 10 June 1958,⁶ and requests the Secretariat to pursue its efforts towards the

¹ *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 17 (A/65/17).*

² See *ibid.*, para. 187 and annex I.

³ See *ibid.*, para. 227.

⁴ See *ibid.*, para. 233.

⁵ See *ibid.*, *Forty-ninth Session, Supplement No. 17* and corrigendum (A/49/17 and Corr.1), annex I.

⁶ See United Nations, *Treaty Series*, vol. 330, No. 4739.

preparation of a draft guide on enactment of the Convention to promote a uniform interpretation and application of the Convention;

7. *Endorses* the efforts and initiatives of the Commission, as the core legal body within the United Nations system in the field of international trade law, aimed at increasing coordination of, and cooperation on, legal activities of international and regional organizations active in the field of international trade law, as well as promoting the rule of law at the national and international levels in this field, and in this regard appeals to relevant international and regional organizations to coordinate their legal activities with those of the Commission, to avoid duplication of efforts and to promote efficiency, consistency and coherence in the modernization and harmonization of international trade law;

8. *Reaffirms* the importance, in particular for developing countries, of the work of the Commission concerned with technical cooperation and assistance in the field of international trade law reform and development, and in this connection:

(a) Welcomes the initiatives of the Commission towards expanding, through its secretariat, its technical cooperation and assistance programme, and in that respect encourages the Secretary-General to seek partnerships with State and non-State actors to increase awareness about the work of the Commission and facilitate the effective implementation of legal standards resulting from its work;

(b) Expresses its appreciation to the Commission for carrying out technical cooperation and assistance activities, including at the country, subregional and regional levels, and for providing assistance with legislative drafting in the field of international trade law, and draws the attention of the Secretary-General to the limited resources that are made available in this field;

(c) Expresses its appreciation to the Governments whose contributions enabled the technical cooperation and assistance activities to take place, and appeals to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to make voluntary contributions to the United Nations Commission on International Trade Law Trust Fund for Symposia and, where appropriate, to the financing of special projects, and otherwise to assist the secretariat of the Commission in carrying out technical cooperation and assistance activities, in particular in developing countries;

(d) Reiterates its appeal to the United Nations Development Programme and other bodies responsible for development assistance, such as the World Bank and regional development banks, as well as to Governments in their bilateral aid programmes, to support the technical cooperation and assistance programme of the Commission and to cooperate and coordinate their activities with those of the Commission, in the light of the relevance and importance of the work and programmes of the Commission for promotion of the rule of law at the national and international levels and for the implementation of the United Nations development agenda, including the achievement of the Millennium Development Goals;

(e) Welcomes the Commission's request for the Secretariat to consider ways of better integrating its technical cooperation and assistance activities in activities conducted on the ground by the United Nations, in particular through the United Nations Development Programme or other country offices of the United Nations;

9. *Appeals* to Governments, the relevant bodies of the United Nations system, organizations, institutions and individuals to make voluntary contributions to the trust fund established to provide travel assistance to developing countries that are members of the Commission, at their request and in consultation with the Secretary-General, in order to enable renewal of the provision of that assistance and to increase expert representation from developing countries at sessions of the Commission and its working groups, necessary to build local expertise and capacities in the field of international trade law in those countries to facilitate the development of international trade and the promotion of foreign investment;

10. *Decides*, in order to ensure full participation by all Member States in the sessions of the Commission and its working groups, to continue, in the competent Main Committee during the sixty-fifth session of the General Assembly, its consideration of granting travel assistance to the least developed countries that are members of the Commission, at their request and in consultation with the Secretary-General;

11. *Welcomes* the adoption by the Commission of a summary of conclusions on the topic of the Commission's rules of procedure and methods of work,⁷ after the comprehensive review of its working methods undertaken by the Commission at its fortieth to forty-second sessions, in the light of the recent increase in membership of the Commission and the number of topics being dealt with by the Commission, and calls upon Member States, non-member States, observer organizations and the Secretariat to apply such rules of procedure and methods of work, with a view to ensuring the high quality of the work of the Commission and international acceptability of its instruments, and in this regard recalls its previous resolutions related to this matter;

12. *Endorses* the conviction of the Commission that the implementation and effective use of modern private law standards on international trade are essential for advancing good governance, sustained economic development and the eradication of poverty and hunger and that promotion of the rule of law in commercial relations should be an integral part of the broader agenda of the United Nations to promote the rule of law at the national and international levels, including through the Rule of Law Coordination and Resource Group, supported by the Rule of Law Unit in the Executive Office of the Secretary-General;

13. *Welcomes* the panel discussion on the rule of law in trade and commerce, held during the forty-third session of the Commission, and takes note with appreciation of the opening remarks delivered by the Deputy Secretary-General and statements made by representatives of States and multilateral development banks and by the Director of the United Nations Rule of Law Unit, reiterating the role of the Commission in promoting the rule of law at the national and international levels and the impact of the work of the Commission on economic and social development, including the achievement of the Millennium Development Goals, on the promotion of coordination and coherence of technical assistance and capacity-building in the field of international commercial law and in the context of post-conflict reconstruction;⁸

⁷ See *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 17 (A/65/17)*, para. 305 and annex III.

⁸ See *ibid.*, paras. 316-333.

14. *Takes note* of the decisions taken by the Commission at the end of the panel discussion, and in particular welcomes those improving the integration of the work of the Commission into the United Nations joint rule of law programmes, in particular by raising awareness about the work of the Commission across the United Nations and by promoting regular dialogue between the Commission and the Rule of Law Coordination and Resource Group;⁹

15. *Welcomes* the review by the Commission of the proposed biennial programme plan for subprogramme 5 (Progressive harmonization, modernization and unification of the law of international trade) of programme 6 (Legal affairs) in the context of its consideration of the proposed strategic framework for the period 2012-2013,¹⁰ takes note that the Commission also expressed concern that the resources allotted to the Secretariat under subprogramme 5 were insufficient for it to meet the increased demand for technical assistance from developing countries and countries with economies in transition for technical assistance with law reform in the field of commercial law, and also takes note that the Commission urged the Secretary-General to take steps to ensure that the comparatively small amount of additional resources necessary to meet a demand so crucial to development are made available promptly;¹¹

16. *Takes note* of concern expressed by the Commission over the lack of sufficient resources in its secretariat to respond to the growing need for uniform interpretation of Commission texts, which is considered indispensable for their effective implementation, and that the Commission encouraged the Secretariat to explore various means to address this concern, building partnerships with interested institutions and establishing within the Commission's secretariat a pillar concentrating on the promotion of ways and means of uniform interpretation of Commission texts, in particular through sustaining and expanding the system for the collection and dissemination of case law on Commission texts (the CLOUT system);¹²

17. *Recalls* its resolutions on partnerships between the United Nations and non-State actors, in particular the private sector,¹³ and its resolutions in which it encouraged the Commission to further explore different approaches to the use of partnerships with non-State actors in the implementation of its mandate, in particular in the area of technical assistance, in accordance with the applicable principles and guidelines and in cooperation and coordination with other relevant offices of the Secretariat, including the Global Compact Office;¹⁴

18. *Reiterates its request* to the Secretary-General, in conformity with its resolutions on documentation-related matters,¹⁵ which, in particular, emphasize that any reduction in the length of documents should not adversely affect either the quality of the presentation or the substance of the documents, to bear in mind the

⁹ See *ibid.*, paras. 334-336.

¹⁰ A/65/6 (Prog. 6).

¹¹ See *Official Records of the General Assembly, Sixty-fifth Session, Supplement No. 17 (A/65/17)*, para. 346.

¹² See *ibid.*, para. 347.

¹³ Resolutions 55/215, 56/76, 58/129, 60/215, 62/211 and 64/223.

¹⁴ Resolutions 59/39, 60/20 and 61/32.

¹⁵ Resolutions 52/214, sect. B, 57/283 B, sect. III, and 58/250, sect. III.

particular characteristics of the mandate and work of the Commission in implementing page limits with respect to the documentation of the Commission;

19. *Requests* the Secretary-General to continue providing summary records of the meetings of the Commission, including committees of the whole established by the Commission for the duration of its annual session, relating to the formulation of normative texts;

20. *Recalls* its resolution approving the establishment of the *Yearbook of the United Nations Commission on International Trade Law*, with the aim of making the work of the Commission more widely known and readily available,¹⁶ expresses its concern regarding the timeliness of the publication of the *Yearbook*, and requests the Secretary-General to explore options to facilitate the timely publication of the *Yearbook*;

21. *Stresses* the importance of bringing into effect the conventions emanating from the work of the Commission for the global unification and harmonization of international trade law, and to this end urges States that have not yet done so to consider signing, ratifying or acceding to those conventions;

22. *Welcomes* the preparation of digests of case law relating to the texts of the Commission, such as a digest of case law relating to the United Nations Convention on Contracts for the International Sale of Goods¹⁷ and a digest of case law relating to the Model Law on International Commercial Arbitration of the United Nations Commission on International Trade Law,¹⁸ with the aim of assisting in the dissemination of information on those texts and promoting their use, enactment and uniform interpretation.

¹⁶ Resolution 2502 (XXIV), para. 7.

¹⁷ See United Nations, *Treaty Series*, vol. 1489, No. 25567.

¹⁸ See *Official Records of the General Assembly, Fortieth Session, Supplement No. 17 (A/40/17)*, annex I, and *ibid.*, *Sixty-first Session, Supplement No. 17 (A/61/17)*, annex I.